

**REMARKS**

This paper is filed response to the Office Action mailed July 17, 2008.

Claims 45-58 are currently pending in this application. Claims 45-51 and 55-58 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0103025 to Murzanski et al (“Murzanski”). Claims 45-51 and 55-58 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Murzanski in view of U.S. Patent No. 4,938,483 to Yavetz (“Yavetz”). Claims 52-54 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Murzanski in view of Yavetz and further in view of U.S. Patent No. 4,964,837 to Collier (“Collier”).

Applicant has amended claims 45 and 46. No new matter is added by these amendments and support may be found in the specification and claims as originally filed.

Applicant traverses each of the rejections set forth in the Office Action and respectfully requests reconsideration and allowance of all claims in light of the amendments above and the remarks below.

I. § 103(a) – Murzanski – Claims 45-51 and 55-58

Applicant respectfully traverses the rejection of claims 45-51 and 55-58 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Murzanski.

To sustain a rejection of a claim under 35 U.S.C. § 103(a), the scope and content of the prior art must disclose or suggest the claimed invention, and mere conclusory statements cannot sustain an obviousness rejection. *See M.P.E.P. § 2141-2143.*

Because Murzanski does not disclose or suggest “a receiver disposed within said housing and operable to receive a sensor signal from the plurality of sensors configured to sense a state of said remotely-controlled device” as recited in claim 45, claim 45 is patentable over Murzanski. The Office Action does not identify disclosure within Murzanski corresponding to sensors within a remotely-controlled device or a receiver within the remote control device. Instead, the Office Action has alleged that it is inherent that a remotely-controlled device would have a sensor, and it is inherent that a remote control device would have a receiver for receiving such sensor signals. However, beyond

these conclusory assertions, no basis has been provided for the inherency of these elements. As noted in the MPEP, quoting the Federal Circuit, “rejections on obviousness cannot be sustained with mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” M.P.E.P. § 2142 quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Thus, because the Office Action provides no other basis for finding “a receiver disposed within said housing and operable to receive a sensor signal from the plurality of sensors configured to sense a state of said remotely-controlled device” in Murzanski, the rejection of claims 45-51 and 55-58 does not satisfy the requirements for a *prima facie* case of obviousness. Applicant respectfully requests the Examiner withdraw the rejection of claims 45-51 and 55-58.

II. § 103(a) – Murzanski in view of Yavetz – Claims 45-51 and 55-58

Applicant respectfully traverses the rejection of claims 45-51 and 55-58 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Murzanski in view of Yavetz.

To sustain a rejection of a claim under 35 U.S.C. § 103(a), the scope and content of the prior art must disclose or suggest the claimed invention. *See* M.P.E.P. § 2141, 2143.

Because Murzanski in view of Yavetz does not disclose or suggest “a receiver disposed within said housing and operable to receive a sensor signal from the plurality of sensors configured to sense a state of said remotely-controlled device” as recited in claim 45, claim 45 is patentable over the combined references. As discussed above, Murzanski does not disclose or suggest “a receiver disposed within said housing and operable to receive a sensor signal from the plurality of sensors configured to sense a state of said remotely-controlled device.” Yavetz does not cure this deficiency.

Yavetz discloses a remote-controlled vehicle game in which multiple players each control a remotely-controlled vehicle. The vehicles include a transmitter for “shooting” an infra-red beam of light at other vehicles. The vehicles also each contain an infra-red sensor for detecting whether the vehicle has been “hit” by an infra-red beam of light from another vehicle. However, Yavetz does not disclose “a receiver disposed within said housing and operable to receive a sensor signal from the plurality of sensors configured

to sense a state of said remotely-controlled device.” As such, the combination of Murzanski and Yavetz does not disclose or suggest “a receiver disposed within said housing and operable to receive a sensor signal from the plurality of sensors configured to sense a state of said remotely-controlled device.” Thus, claim 45 is patentable over Murzanski in view of Yavetz. Applicant respectfully requests the Examiner withdraw the rejection of claim 45.

Because claims 46-51 and 55-58 each depend from and further limit claim 45, claims 46-51 and 55-58 are each patentable over Murzanski in view of Yavetz for at least the same reason. Applicant respectfully requests the Examiner withdraw the rejection of claims 46-51 and 55-58.

### III. § 103(a) – Murzanski in view of Yavetz and Collier – Claims 52-54

Applicant respectfully traverses the rejection of claims 52-54 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Murzanski in view of Yavetz and further in view of Collier.

To sustain a rejection of a claim under 35 U.S.C. § 103(a), the scope and content of the prior art must disclose or suggest the claimed invention. *See* M.P.E.P. § 2141, 2143.

Because Murzanski in view of Yavetz and further in view of Collier does not disclose or suggest “a receiver disposed within said housing and operable to receive a sensor signal from the plurality of sensors configured to sense a state of said remotely-controlled device” as recited in claim 45, from which claims 52-54 depend, claims 52-54 are each patentable over the combined references. As discussed above, Murzanski in view of Yavetz does not disclose or suggest “a receiver disposed within said housing and operable to receive a sensor signal from the plurality of sensors configured to sense a state of said remotely-controlled device.” Collier does not cure this deficiency.

Collier discloses the use of a sensor within a remotely-controlled vehicle to detect when the vehicle strikes an obstacle, however, the sensor signal is used to play a sound on a speaker within the vehicle. Collier does not disclose or suggest that the remote control device receives the sensor signal or is capable of receiving such a sensor signal. Thus, the body of prior art relied upon to reject claims 52-54 does not disclose or suggest

“a receiver disposed within said housing and operable to receive a sensor signal from the plurality of sensors configured to sense a state of said remotely-controlled device” as recited in claim 45, from which claims 52-54 depend. Thus, claims 52-54 are each patentable over Murzanski in view of Yavetz and further in view of Collier. Applicant respectfully requests the Examiner withdraw the rejection of claims 52-54.

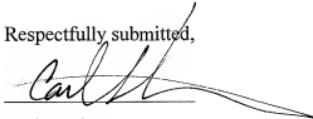
**CONCLUSION**

Applicant respectfully asserts that in view of the amendments and remarks above, all pending claims are allowable and Applicant respectfully requests the allowance of all claims.

Should the Examiner have any comments, questions, or suggestions of a nature necessary to expedite the prosecution of the application, or to place the case in condition for allowance, the Examiner is courteously requested to telephone the undersigned at the number listed below.

Date: 10/7/2008

Respectfully submitted,

  
Carl Sanders

Reg. No. 57,203

KILPATRICK STOCKTON LLP  
1001 West Fourth Street  
Winston-Salem, NC 27101  
(336) 607-7474 (voice)  
(336) 734-2629 (fax)